

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY

OF

JAMES M. McDANIEL

FEBRUARY 4, 2010



DOCKET NO. 2009-360-C

**Application of Image Access, Inc. d/b/a
NewPhone for Designation as an Eligible
Telecommunications Carrier**

DIRECT TESTIMONY OF JAMES M. MCDANIEL

FOR

THE OFFICE OF REGULATORY STAFF

DOCKET NO. 2009-360-C

**IN RE: APPLICATION OF IMAGE ACCESS D/B/A NEWPHONE FOR
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND
OCCUPATION.**

A. My name is James M. McDaniel, and my business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the South Carolina Office of Regulatory Staff ("ORS") as a Program Manager in the Telecommunications Department.

**Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND
EXPERIENCE.**

A. I received a Bachelor of Science degree in Engineering from the University of South Carolina. I worked for the Public Service of Commission of South Carolina ("Commission" or "PSC") as an associate engineer and as chief of the telecommunications area in the Utilities Department for approximately 28 years. In September 2004, I joined the South Carolina Office of Regulatory Staff as a Program Manager in the Telecommunications Department.

1 **Q. HOW LONG HAVE YOU PROVIDED REGULATORY OVERSIGHT TO**
2 **TELECOMMUNICATIONS UTILITIES?**

3 A. I have over 30 years experience in the regulation of the
4 telecommunications industry in South Carolina.

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
6 **PROCEEDING?**

7 A. The purpose of my testimony is to set forth ORS staff findings relative to
8 its review Image Access, Inc. d/b/a NewPhone's ("NewPhone" or "Company")
9 Application for Eligible Telecommunications Carrier ("ETC") designation within
10 the State of South Carolina.

11 **Q. ARE THE FINDINGS OF YOUR REVIEW CONTAINED IN THIS**
12 **TESTIMONY?**

13 A. Yes, my testimony provides ORS's findings and recommendations.

14 **Q. PLEASE EXPLAIN HOW YOU COMPILED THE INFORMATION FOR**
15 **YOUR TESTIMONY.**

16 A. I compared the information provided in NewPhone's application and
17 direct testimony with the requirements contained in the Commission's regulations
18 103-690, which set out the requirements for ETC designation. These Commission
19 regulations became effective on May 23, 2008. Additionally, I reviewed the
20 filings and records maintained in the offices of ORS.

21 **Q. PLEASE PROVIDE A GENERAL SUMMARY OF YOUR REVIEW OF**
22 **THE APPLICATION OF NEWPHONE FOR ETC DESIGNATION.**

1 A. The application of NewPhone was filed with the Commission on August
2 24, 2009. ORS's review of this application identified that NewPhone is seeking
3 ETC designation in South Carolina in the areas served by BellSouth
4 Telecommunications, Inc. d/b/a AT&T South Carolina, which is classified as a
5 non-rural carrier. According to the Application and Testimony, NewPhone is
6 seeking ETC designation solely for the purpose of obtaining Federal Universal
7 Service Fund low income support so that it can provide Lifeline and Link Up
8 credits to its eligible consumers in South Carolina.

9 **Q. IS NEWPHONE REQUESTING ETC DESIGNATION FOR THE**
10 **PURPOSE OF RECEIVING FEDERAL HIGH COST UNIVERSAL**
11 **SERVICE FUND SUPPORT?**

12 A. No. According to its application, NewPhone is not seeking high cost
13 support from the federal universal service fund.

14 **Q. IS NEWPHONE A FACILITIES BASED CARRIER?**

15 A. No. NewPhone is currently providing all services in South Carolina on a
16 resale basis, and this does not comply with Federal requirements. Federal
17 regulations, as set forth in Section 214(e)(1) of the Telecommunications Act of
18 1996 and 47 C.F.R. 54.201(d)(1) and (2) require a carrier to offer the services
19 supported by Federal Universal Support mechanisms using either its own facilities
20 or a combination of its own facilities and resale of another carrier's services
21 (including the services offered by another eligible telecommunications carrier).

1 **Q. HAS NEWPHONE DEMONSTRATED ITS COMPLIANCE WITH ALL**
2 **OF SOUTH CAROLINA REGULATORY REQUIREMENTS?**

3 A. No. In South Carolina, a carrier is required to demonstrate that it will
4 satisfy applicable consumer protection and service quality standards. NewPhone
5 has not filed Quarterly Quality of Service Reports as required by the Commission
6 regulations.

7 **Q. DOES ORS RECOMMEND APPROVAL OF NEWPHONE'S**
8 **APPLICATION FOR ETC DESIGNATION?**

9 A. No, not at this time. NewPhone has failed to demonstrate compliance with
10 all state and federal requirements related to ETC designation.

11 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

12 A. Yes.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2009-360-C

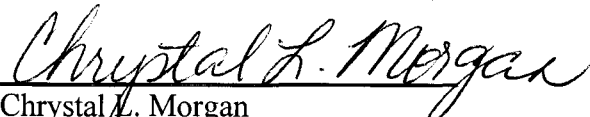
IN RE:

Application of Image Access, Incorporated
d/b/a NewPhone for Designation as an
Eligible Telecommunications Carrier

)
) **CERTIFICATE OF**
) **SERVICE**
)

This is to certify that I, Chrystal L. Morgan, have this date served one (1) copy of the **DIRECT TESTIMONY OF JAMES M. MCDANIEL** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Jim Dry, Chief Financial Officer
Image Access, Incorporated d/b/a NewPhone
5555 Hilton Avenue, Suite 415
Baton Rouge, LA, 70808


Chrystal L. Morgan

February 4, 2010
Columbia, South Carolina